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GROUP 3600

**ELECTIONS/REMARKS**

**Summary of Office Action**

In the above Office Action, Restriction to one of the following inventions was required under 35 U.S.C. § 121:

- I. Claims 1-20, drawn to an apparatus and method for customer service, classified in class 186, subclass 36.
- II. Claims 21-28, drawn to a high speed transmitter for data, classified in class 455, subclass 3.01.
- III. Claims 29-35, drawn to a method for high speed variable rate data, classified in class 455, subclass 62.

In the above Office Action, Examiner Bower substantiated the requirement for Restriction under 35 U.S.C. § 121 by stating, in pertinent part, that:

...In the instant case, invention I. has separate utility such as sending and receiving a fax message. In the instant case, invention II. has separate utility such as data acquisition in a multiple facility laboratory complex. In the instant case, invention III. has separate utility such as digitized voice communication in an area experiencing high radio interference.

**Elections**

In response to the above restriction requirement and the Examiner's perceived need for three groups of claims, Applicant provisionally elects to prosecute the claims of Group III (i.e., claims 29-35), with traverse.

**Request for Reconsideration of Restriction of Groups II and III**

As indicated above, the Examiner has justified the restriction of the pending claims among Groups I, II and III by arguing that the invention(s) of each Group comprise separately-useable subcombinations. Applicant respectfully submits that the invention(s) defined by Groups II and III facially appear to exhibit substantially identical utility, and that the Examiner has provided no evidence in support of the contention that the invention(s) of each Group are

separately useable. Applicant directs the Examiner's attention to independent claim 21 of Group II and of independent claim 29, which are reproduced below:

21. A high-speed transmitter for digital data having a variable data rate, the transmitter comprising:  
a convolutional encoder, adapted to generate, for each group of  $k$  input bits in the bitstream,  $n$  coded output bits, such that  $k$  and  $n$  are integers,  $n$  equal to or greater than  $k$ , and at least one of  $k$  and  $n$  is variable responsive to the variable data rate of the transmitter; and  
a modulator, coupled to map the output its generated by the encoder to a constellation of  $M$  symbols for transmission by the transmitter,  $M$  an integer, which is variable responsive to the variable data rate of the transmitter.
29. A method for variable-rate, high-speed transmission of digital data, comprising:  
specifying a first bit rate at which the data are to be transmitted by a transmitter;  
applying convolutional encoding to the data so as to generate, for each group of  $k$  input bits in the bitstream,  $n$  coded output bits, such that  $k$  and  $n$  are integers,  $n$  equal to or greater than  $k$ ;  
modulating the output bits to generate a constellation of  $M$  symbols,  $M$  a variable integer, for transmission of the modulated data at a given symbol rate and at the first bit rate;  
specifying a second bit rate at which the data are to be transmitted, different from the first bit rate; and  
changing a value of at least one of  $k$ ,  $n$  and  $M$ , so that after applying the convolutional encoding and modulating the output bits using the changed value, the transmitter transmits the modulated data at the given symbol rate and at the second bit rate.

Given the evident similarity in the subject matter of claims 21 and 29, Applicant respectfully submits that no basis exists to infer the separate utilities of the claims of Groups II and III set forth in the above Office Action. For example, Applicant observes that both claims 21 and 29 contemplate applying convolutional encoding to the data so as to generate, for each group of  $k$  input bits in the bitstream,  $n$  coded output bits, such that  $k$  and  $n$  are integers,  $n$  equal to or greater than  $k$ . Moreover, both claims require that the output bits be modulated so as to generate a constellation of  $M$  symbols, where  $M$  is a variable integer. In view of these similarities, Applicant respectfully submits that the claims of Groups II and III would be useful in substantially identical contexts, and observes that the Examiner has not provided any reasons why the claims of these Groups are separately useable. For example, Applicant fails to appreciate why only the claims of Group III useable in "digitized voice communication".

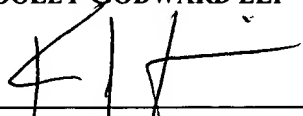
Applicant observes that proper restriction of patentably distinct inventions requires a serious burden on the Patent Office. MPEP § 803 ("[i]f the search and examination of an entire application can be made without serious burden, the Examiner *must* examine it on the merits, even though it contains claims to distinct or independent inventions") (emphasis added). In view of the substantial similarity of the subject matter of the claims of Groups II and III, Applicant respectfully submits that the Examiner has provided insufficient evidence to establish that examination of the invention(s) of both Groups seriously burdens the Examiner.

Accordingly, Applicants submit that restriction between the inventions of Groups II and III is improper. In view of the foregoing, Applicants respectfully request that the restriction requirement under 35 U.S.C. § 121 as to Groups II and III be withdrawn, and that the claims of these Groups be examined in the present application.

The undersigned would of course be available to discuss the present application with the Examiner if, in the opinion of the Examiner, such a discussion could lead to resolution of any outstanding issues. The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 03-3117.

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